

[ADSL] on an aggressive schedule in forty-three cities throughout its fourteen states."⁴⁶

These activities are all taking place under the existing statutory framework.

Intermedia questions US West's premise that the cost of xDSL technology is prohibitive in low-density, rural areas, requiring special incentives to stimulate such investment:

"In fact, the resale of US West's xDSL loop services will have the effect of dramatically increasing US West's sales force, and will expand its customer base. This will stimulate demand that will decrease the incremental cost of providing service, and will help to ensure that newly-installed plant does not sit idle. Moreover, because state commissions have prescribed the wholesale discounts that will apply to these services, US West is provided full recovery of its economic costs, plus a reasonable profit on those services. Resale of xDSL-based services will therefore stimulate demand, lower costs, and speed the deployment of xDSL technology."⁴⁷

If anything, these activities suggest that the RBOCs see a market for these services, but do not want to either introduce these new services in areas where there is no competitive pressure to do so, or share in incrementally-priced services with their potential competitors.⁴⁸ Rather, they appear to be deploying these services where their business

⁴⁶ Testimony of Joe Zell, President, US West Enterprise Networking Services, before the Subcommittee on Communications, Committee on Commerce, Science and Transportation, United States Senate, April 22, 1998 ("Senate Hearing"), p. 7. See also Intermedia at 18-19.

⁴⁷ Intermedia at 16-17; see also WorldCom at 49-51.

⁴⁸ Even the petitioners' few supporters agree with the Bell Atlantic White Paper (Bell Atlantic Petition at Attachment 2, p. 15) that the costs of deploying xDSL technology are minimal. See Compaq at 7-8.

customers demand them,⁴⁹ or where they face competitive threats from emerging cable operators.⁵⁰ Thus the claim that relief from the unbundling and resale requirements and the interLATA restrictions is necessary to provide the appropriate incentives for RBOC investment, including in rural areas, rings hollow.

Indeed, even US West, which premised its petition on its need to make the economics more attractive to provide advanced services to customers in its rural areas,⁵¹ has backed away from its "commitment" to serve those areas if the requested relief is granted. In his recent testimony before the Senate Subcommittee on Communications, Mr. Joe Zell, President of US West Enterprise Networking Services, noted that US West is upgrading only 236 of its over 1,200 central offices -- apparently all located in urban areas -- to provide DSL services, but conceded, under questioning, that even with regulatory relief US West is "not prepared today to give you that commitment [to a specific time table for folks in rural communities to get the fruits of this technological revolution]."⁵²

⁴⁹ See "Bell Atlantic Blankets Northeast States With Versatile Palette of Asynchronous Transfer Mode Options," Company Press Release, January 27, 1998 ("Bell Atlantic will carry its own interLATA and interstate ATM traffic after it receives the necessary regulatory clearance to provide long distance service").

⁵⁰ See n. 45, *supra*.

⁵¹ See, e.g., US West Petition, Preliminary Statement.

⁵² Senate Hearing Transcript No. 981120373. Mr. Zell also conceded that US West is selling off rural exchanges and, while claiming that these sales are better for the people in those communities, he failed to explain how such sales would improve the economics for deployment of advanced services to those communities. *Id.*

(footnote continued on following page)

Stripped of this "public interest" rhetoric, it is even more clear that the petitioners are invoking Section 706 to enter the long distance market through the "back door," before they comply with the pro-competitive mandates of Sections 251 and 271,⁵³ and to lock up the market for advanced voice and data services by denying their potential

(footnote continued from previous page)

AT&T has already suggested (AT&T (US West) at 15, n.27) that to the extent that there are technical limitations on the provision of these services to rural communities, the appropriate response is to allow competitive market forces to attempt to meet these needs in the most efficient manner possible, and not to solidify the incumbent monopolist's control over those markets. If the competitive marketplace cannot provide necessary services, and if there is a determination that such services warrant federal subsidy, then and only then should competitively-neutral incentives be considered, under the procedures set forth in Section 254 of the 1996 Act. The Commission thus has ample authority to ensure that advanced services are encouraged and deployed in a competitively and technology-neutral manner, and need not bend the 1996 Act to its breaking point, as the petitioners demand. In its Report to Congress, CC Docket No. 96-45 (rel. April 10, 1998), the Commission endorsed this approach, noting (at ¶ 104) that "it appears that universal service funds could be used to ensure rural and high-cost areas have affordable access to high-speed data transmission services, such as xDSL, when those services meet the criteria for support outlined in section 254(c)." See also ALTS at 22 ("if there were any logic to applying section 706 solely in a rural context, it would only become appropriate to [do] so at a time when it was clear that the competitive environment of urban areas was not also spreading to rural areas. Monopoly provisioning should function only as a last resort, and not as an initial policy preference").

- ⁵³ US West CEO Sol Trujillo recently stated to financial analysts that US West intends to deploy a data network fully capable of carrying both voice and data calls. See "Trujillo Outlines Aggressive US WEST National Data Strategy at Bloomberg Financial Forum; Calls on FCC to Help by Dropping Barriers to High-Speed Regional Internet and Data Traffic," US West Corporate Release, March 5, 1998 ("The digital revolution is upon us, and consumer demand for Internet and data services is exploding. By the next decade, data will represent fully 80% of the traffic on our network, and voice only 20%. To meet this demand, creating a 'data-centric' network based on 'web-tone' is a strategic imperative. That's why we are aggressively deploying a robust nationwide network that can carry packet-switched data as well as voice calls").

competitors their absolute statutory rights to gain access to the incumbents' underlying monopoly facilities. Many Commenters question the RBOCs' claims that they need interLATA relief in order to offer broadband services, noting that where they already have in-region interLATA relief, they are not investing in local data services. To the contrary, the RBOCs' out-of-region activities have been focused on high-profit metropolitan areas, and on interexchange services. Commenters thus rightly question the RBOCs' real motive to seek in-region interLATA relief before meeting their Section 271 obligations, which the Commenters suggest is to exploit their monopoly in the local exchange to bundle local and long distance services, including Internet services, to the exclusion of competitive offerings.⁵⁴

If the RBOCs are serious about obtaining regulatory relief of the scope suggested in the three RBOC petitions, the Commission may want to explore, in a separate proceeding and under a different regulatory model, the possibility -- suggested in these proceedings by LCI and Level 3 -- of allowing the RBOCs to create a completely separate company for the provision of advanced telecom services. However, for such a company to be truly separated from the RBOC's existing operations -- in essence for the company to be on a truly equal footing with CLECs -- it must achieve separation much more meaningful than recommended, in this same context, by APT in its similar 706 petition, which only suggests a separate subsidiary "as a marketing device for its advanced

⁵⁴ See ALTS at 19-20; MCI (Bell Atlantic) at 11; Sprint at 6-7, 9-10; WorldCom at 37-39.

telecommunications operations."⁵⁵ Rather, if the Commission decides to pursue this as an alternative, the Commission should consider a totally divested entity that is not commonly owned with the RBOC; that must purchase access to UNEs and resale like any other CLEC; that can obtain no collocation that is not offered to other CLECs; that obtains the same pricing as other CLECs; that, in essence, comes to the market with no financial or market advantages related to any affiliation with its former RBOC parent. Only upon such divestiture could the Commission appropriately conclude that such operations are indeed "separated." And only with such complete separation could the Commission be assured that all providers are given an equal opportunity (and have the salutary incentive) to compete, including in particular "the same quality of access to the existing copper loops owned by the incumbents" and "fair collocation policies," as Chairman Kennard stressed in his recent speech on this issue.⁵⁶

V. THE COMMENTS ALSO DEMONSTRATE THAT THE MOST SIGNIFICANT SOURCE OF "CONGESTION" IN THE INTERNET IS AT THE LOCAL LOOP.

Finally, the Comments also conclusively demonstrate that the overwhelming cause of "congestion" on the Internet falls squarely at the feet of the RBOCs -- at the local loop. First, the Comments strongly demonstrate that the petitioners

⁵⁵ See Petition the Alliance for Public Technology Requesting Issuance of Notice of Inquiry and Notice of Proposed Rulemaking to Implement Section 706 of the 1996 Telecommunications Act, RM No. 9244, filed February 18, 1998, p. 17.

⁵⁶ Remarks by William Kennard, Chairman, Federal Communications Commission to USTA's Inside Washington Telecom, April 27, 1998, p. 4.

have misrepresented the amount of investment already being made in the Internet backbone. They list over and over the billions of dollars in investment flowing into the Internet backbone by the existing interexchange providers as well as new entrants, and further confirm that to the extent there are current shortages of capacity, these are anticipated "growing pains" that backbone providers are adequately and enthusiastically addressing.⁵⁷

Moreover, many of the CLEC Commenters point out that they are capable of offering -- and indeed do offer -- high-speed local access to the Internet.⁵⁸ Indeed, the RBOCs themselves selectively offer such high-speed connections, when and where they unilaterally choose to condition and upgrade their analog loops to accommodate high-speed data services.⁵⁹ This further confirms that if CLECs are allowed access to the unbundled network elements -- in particular conditioned loops -- as well as reasonable collocation opportunities, the "congestion" in the local loop can be addressed by competitive providers. This is precisely the opposite of what the petitioners intend to do, if their petitions are granted.

Especially in light of the overwhelming evidence on the record that any capacity problem "on the Internet" is in the local loop, none of the petitioners has shown

⁵⁷ See, e.g., APK at 19-20; CIX (Bell Atlantic) at 7-8; CompTel at 5-7; Joint Commenters at 12-13; LCI at 9; MCI (Bell Atlantic) at 31; Sprint at 13-14; WorldCom at 33-47.

⁵⁸ See, e.g., Covad at 4-5; DSL at 4-5.

⁵⁹ See, pp. 19-20, supra.

why the entry of monopoly local carriers is needed to promote investment in the backbone. To the contrary, the Comments confirm that the public interest would be best served by adhering to the very mandates of the Telecom Act that the RBOCs are trying to avoid -- that is, opening their local networks to competition. The public interest will not be furthered by extending the RBOCs' monopoly into the Internet. Thus the Comments overwhelmingly support AT&T's view that so long as the RBOCs retain a dominant market position in the local exchange, their entry into the interexchange market has much more potential to impede competition than to foster it.⁶⁰

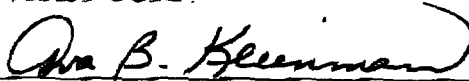
VI. CONCLUSION

For the reasons set forth above, the three RBOC petitions should be denied in their entirety, and the Commission should do so on an expeditious basis.

Respectfully submitted,

AT&T CORP.

By



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May 6, 1998

⁶⁰ See, e.g., APK at 3; Joint Commenters at 16-17; MCI (Bell Atlantic) at 9; Sprint at 7.

APPENDIX A

List of Commenters*

American Communications Services, Inc. ("ACSI")
Alliance for Public Technology ("APT")
America Online, Inc. ("AOL")
Ameritech
APK Net, Ltd., et al ("APK")
Association for Local Telecommunications Services ("ALTS")
AT&T Corp. ("AT&T")
Aurora Chamber of Commerce
BellSouth Corporation ("BellSouth")
Bismark/Mandan Development Association
Cablevision Lightpath, Inc.
Council of Chief State School Officers
Commercial Internet Exchange Association ("CIX")
Compaq Computer Corporation ("Compaq")
Competitive Telecommunications Association ("CompTel")
Computer & Communications Industry Association ("CCIA")
Covad Communications Company ("Covad")
DSL Access Telecommunications Alliance ("DSL")
Excel Telecommunications, Inc.
Focal Communications Corp., Hyperion Telecom, Inc., KMC Telecom Inc., McLeod USA
("Joint Commenters")
Global NAPs, Inc.
GTE Service Corporation ("GTE")
ICG Telecom Group, Inc.
Information Technology Association of America ("ITAA")
Intermedia Communications Inc. ("Intermedia")
Internet Access Coalition ("IAC")
LCI International Telecom Corp. ("LCI")
Level 3 Communications, Inc. ("Level 3")
MCI Telecommunications Corporation ("MCI")
Minnesota Department of Public Service
National Association of Regulatory Utility Commissioners ("NARUC")
Next Level Communications
Omnipoint Communications Inc.
Organizations Concerned About Rural Education
Pennsylvania Public Service Commission
Public Service Commission of Wisconsin & the Indiana Utility Regulatory Commission
("PSCW")

* Where the Comments are specific to a particular RBOC petition, AT&T notes, in its citation, the specific RBOC petition.

APPENDIX A

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SBC Communications Inc. ("SBC")
Sprint Corporation ("Sprint")
Sun Microsystems, Inc.
Telecommunications Resellers Association ("TRA")
Teleport Communications Group Inc. ("Teleport")
TransWire Communications, L.L.C. ("TransWire")
United Homeowners Association, et al
United States Telephone Association ("USTA")
U S West, Inc. ("US West")
Utah Rural Development Council
Utah State Representative, Thomas Hatch
Washington Economic Development Council
WorldCom, Inc. ("WorldCom")
Xcom Technologies, Inc. ("Xcom")

CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 6th day of May, 1998, a copy of the foregoing "Consolidated Reply Comments of AT&T Corp." was served by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.


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